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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,001	07/28/2003	Robert Blumenthal	781-147U1	7342

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EXAMINER	
MUSSEY, BARBARA J	
ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,001

Applicant(s)

BLUMENTHAL, ROBERT

Examiner

Barbara J. Musser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/14/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuronda(U.S. Patent 3,629,034) in view of Haigh(U.S. Patent 3,657,060).

Kuronda discloses forming an emblem by applying heat and pressure to a fabric layer to form an embossed pattern and bonding it to a layer of adhesive.(Col. 1, ll. 11-25, 56, 66) Calendering is defined as applying heat and pressure to flatten areas. An additional printed pattern can be applied to the emblem.(Col. 2, ll. 20-22) The reference does not disclose the specific type of adhesive used, simply stating that the types of adhesives used in the art are very well-known.(Col. 3, ll. 10-19) Haigh discloses forming an emblem with a fabric layer and an adhesive layer wherein the adhesive layer is a thermoplastic adhesive.(Abstract) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a thermoplastic adhesive as the adhesive layer of Kuronda since Kuronda discloses that the types of adhesives which can be used are well-known to those in the art and since Haigh forms the same type of article as Kuronda and discloses the adhesive is a thermoplastic. While Kuronda does not show directly applying the adhesive to the fabric layer without intervening layers, applicant's specification indicates that the invention is "employed for completion of the

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emblem making process in a manner as described in connection with the above-referenced patents".(Pg. 4, ll. 15-17) One of the above referenced patents is U.S. Patent 4,981,742, which shows multiple layers between the fabric layer and the thermoplastic adhesive layer, indicating that the application of the adhesive to the surface of the fabric layer can be the application of the adhesive to layers which contact the fabric layer.

Regarding claim 2, whether printing occurs before or after embossing is a choice of one in the art and it is taken to be well within the purview of choice of one in the art absent any showing of unexpected results. It would appear that an incentive for one in the art to print (i.e. pattern) after calendering would have simply been to avoid distorting the image.

Regarding claim 3, one in the art would appreciate that the calendering could occur before application of the adhesive to prevent the adhesive from bonding to the calender rolls since the adhesive is thermoplastic and therefore activatable by heat.

Regarding claim 4, Kuronda discloses that a pattern can be printed on the fabric before embossing(calendering) to provide an outline.(Col. 2, ll. 62-64, 71-73)

Regarding claim 5, Kuronda discloses the adhesive layer is present when the embossing is performed.(Col. 3, ll. 47-70)

3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuronda and Haigh as applied to claim 1 above, and further in view of Jetzer et al.(U.S. Patent 6,159, 875).

The references cited above do not disclose the pressure and temperature at which the calender is applied. Jetzer et al. discloses calendering fabric at a temperature of 170-220C and pressures of up to 300 daN per cm(300,000 N per meter), ranges which encompass or overlap applicant's.(Col. 4, ll. 11-14) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the temperatures and pressures claimed to calender the fabric since these appear to be well-known and conventional temperature and pressure ranges for calendering fabric as shown for example by Jetzer et al., which discloses calendering fabrics at temperatures and pressures within the claimed ranges.(Col. 4, ll. 11-14)

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuronda and Haigh as applied to claim 1 above, and further as evidenced by Murakami et al.(U.S. Patent 4,774,110).

Kuronda shows the fabric is flattened.(Figure 6) The references cited above do not disclose the emblem has a luster. However, Murakami et al. discloses that embossing imparts luster to the fabric.(Col. 6, ll. 60-61) Therefore, one in the art would understand that the emblem of Kuronda and Haigh would have a luster since Murakami et al. discloses that embossing, which occurs in Kuronda, imparts a luster to fabric.(Col. 6, ll. 60-61)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571)

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272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571)-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BJM


SAM CHUAN YAO
PRIMARY EXAMINER